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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,006	08/24/2000	Patrick Tso	10738-17	5310

7590

09/19/2002

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EXAMINER

MITRA, RITA

ART UNIT

PAPER NUMBER

1653

DATE MAILED: 09/19/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

File Copy

## Office Action Summary

Application N .

09/623,006

Applicant(s)

TSO ET AL.

Examiner

Rita Mitra

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1, 4-62 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other.

**DETAILED ACTION**

***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I      Claims 1, 4-12, drawn to a method of treating conditions associated with lipid oxidation, comprising administering a composition comprising a pharmacologically effective amount of an apolipoprotein A-IV compound and derivatives thereof, wherein the apolipoprotein A-IV compound is a peptide sequence of from 6-71 amino acids in length, the composition further comprises one ingredient selected from carriers, fillers or excipients; a lipophilic compound selected from the group consisting of organic solvents, phosphatidyle choline, cholesterol, and mixtures thereof.

Should group I be elected, applicants are required to select one sequence by SEQ ID NO for example claim 4.

Group II      Claims 13-27, drawn to a method of inhibiting the progression of atherosclerosis in a patient in need thereof comprising administering to the patient an effective anti-oxidation amount of a compound of claim 1 and claim 4.

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Should group II be elected, applicants are required to select one sequence by SEQ ID NO: for example claim 15.

Group III      Claims 28-34 and 35-41, drawn to a method of preventing oxidation in a lipid-containing food or pharmaceutical and comprising incorporating in the food or pharmaceutical an oxidation-inhibiting amount of an apolipoprotein A-IV compound to protect the food or pharmaceutical from oxidation.

Should group III be elected, applicants are required to select one sequence by SEQ ID NO for example claim 31 and claim 38.

Group IV      Claims 42-<sup>62</sup>~~61~~, drawn to a method of preventing oxidation using a cosmetic or a dermatological composition comprising incorporating, in a suitable vehicle containing cosmetic or dermatological composition, an oxidation-inhibiting amount of an apolipoprotein A-IV compound to protect the containing cosmetic or dermatological composition from oxidation, wherein the composition is in the form of a suspension or dispersion in a solvent or a fatty substance, or an emulsion, ointment etc; the composition additionally contains cosmetic adjuvants. Further the composition contains either at least one basic agent or includes at least one tocopherol or a derivative thereof.

Should group IV be elected, applicants are required to select one sequence by SEQ ID NO for example claim 45 and claim 52.

The inventions listed as Groups I, II, III and IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

In particular, each group is directed to distinct chemical entities, which are used in different methods and produce different effects. Groups I, II, III and IV differ from one another in that they are not linked by a single inventive concept because the agents claimed in these groups of inventions are not necessarily the same. The effects of the methods of these Groups are distinct from, and thus represent patentably distinct subject matter. For this reason, lack of unity of invention exists, and the inventions may appropriately be restricted. Should Group I, II, III or IV be elected, Applicants also need to designate a specific sequence. This is not a species election, rather each is held as patentably distinct.

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

*Inquiries*

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rita Mitra whose telephone number is (703) 605-1211. The Examiner can normally be reached from 9:30 a.m. to 6:30 p.m. on weekdays. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached at (703) 308-2923. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



KAREN COCHRANE CARLSON, PH.D.  
PRIMARY EXAMINER



Rita Mitra, Ph.D.  
September 17, 2002